

Editor's note: Reconsideration denied by order dated Nov. 1, 1982

HERBERT ROTHSCHILD

IBLA 81-206

Decided October 26, 1981

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application ES 25317.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Attorneys-in-Fact or Agents
An oil and gas lease application, form 3112-1 (June 1980), is not completed in accordance with regulation 43 CFR 3112.2-1 or the instructions on the application itself where questions (d) through (f) are not answered by checking appropriate boxes on the application as the instructions on the application form expressly require.

APPEARANCES: Herbert Rothschild, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Herbert Rothschild appeals from the November 17, 1980, decision of the Eastern States Office, Bureau of Land Management (BLM), which rejected his simultaneous oil and gas lease application for parcel ES 88. Appellant was the first drawn applicant for that parcel in the July 1980, simultaneous oil and gas lease drawing. The decision states in pertinent part:

The application for parcel No. ES-88 offered in the simultaneous oil and gas list No. 80-7 was drawn as first priority.

The lease application provides space to show other parties in interest, if any. However, Items "d" through "f" were not answered. Regulations 43 CFR 3112.2-1(g) and

43 CFR 3102.2-7 require that an applicant submit a properly completed application and set forth on the lease application the names of all other parties who own or hold any interest in the application.

Since the application was not properly completed and no evidence given as to whether or not there are any other interest holders in the application the lease application is hereby rejected.

On appeal appellant points out that the old simultaneous drawing entry cards did not provide boxes to be checked for designation of other interested parties. He states that he studied the new form and understood that items (d) through (f) needed to be checked only if there was another party in interest, and that since no other name appeared on the application, that was positive proof that no other party had an interest in the application. Finally, he states:

Since the sections (d) (e) and (f) were written in such a way that I misunderstood them to mean that unless there was another party in interest in the application I would not have to check off the blocks in those sections, I do not think I should be penalized so severely as to deny my application on parcel ES-88 because of my misunderstanding the wording of the application form.

[1] 43 CFR 3112.2-1(a) and (g) require a simultaneous oil and gas lease application to be properly completed. Thus a completed application would include a response to questions (d) through (f) on the application. The instructions on the application for items (a) through (f) read: "Undersigned certifies as follows (check appropriate boxes) (original in italics)." Two boxes with yes and no alternatives appear after the following questions (d), (e), and (f):

(d) Does any party, other than the applicant and those identified herein as other parties in interest, own or hold any interest in this application, or the offer or lease which may result? * * *

(e) Does any agreement, understanding, or arrangement exist which requires the undersigned to assign, or by which the undersigned has assigned or agreed to assign, any interest in this application, or the offer or lease which may result, to anyone other than those identified herein as other parties in interest? * * *

(f) Does the undersigned have any interest in any other application filed for the same parcel as this application?

Clearly these questions address issues in addition to other parties who may have an interest in the specific application. Thus appellant was required to check the appropriate boxes for questions (d) through (f) to complete the application, in addition to listing the names of other parties in interest on the application. Appellant's failure to respond to questions (d) through (f) created a defect in the application, and it was properly rejected by BLM. Simon A. Rife, 56 IBLA 378 (1981); Edward Marcinko, 56 IBLA 289 (1981); Vincent M. D'Amico, 55 IBLA 116 (1981) (appeal pending).

As we stated in Nancy Y. Otani, 57 IBLA 38 (1981), citing Walter M. Sorenson, 32 IBLA 345, 347 (1977): "[T]he DEC's filed on particular parcels may number into the hundreds and thus strict adherence to the requirements of the regulations is necessary to insure fairness and uniformity for all participants."

Therefore, pursuant to the authority delegated to the Bureau of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Bruce R. Harris
Administrative Judge

